

Application No. 10/656,936  
Paper Dated September 8, 2006  
In Reply to USPTO Correspondence of May 12, 2006  
Attorney Docket No. 1381-031188

**AMENDMENTS TO THE DRAWINGS**

The attached sheets of drawings include changes to FIG. 2A. The replacement sheet, which includes FIGS. 1A, 1B, 2A, 2B, 2C and 2D, replaces the original sheet including FIGS. 1A, 1B, 2A, 2B, 2C and 2D. Changes incorporated in the replacement sheet are indicated in red on the attached annotated copy of the original sheet.

Attachments: Replacement Sheet  
Annotated Copy of Original Sheet

**REMARKS**

Claims 1-20 were pending in this application. Claims 2-3 and 8-20 are cancelled. Claim 1 has been amended to incorporate the limitations of now cancelled claims 8 and 9. New claim 21 has been added to require that (a) the planar width of the prongs is less than the planar width of the body of the clip and (b) the material thickness of the clip is uniform throughout. No new subject matter is believed to have been added by these amendments. Support for these limitations is found in (a) FIGS. 2A and 2D and (b) FIG. 2B and original paragraphs [0020], [0025] (i.e., flat blank), respectively. For example, as shown in FIG. 2A, the planar width across the entire clip 10 is reduced at the prong members 16, 17 so that the prong members 16, 17 of the clip 10 are narrower than the width of the blank 20. As discussed in paragraphs [0020] and [0027], the clip 10 is a flat blank that is formed from stamping a given material to form a unitary body 12 and the prong member 16, 17. By being formed from a unitary flat blank, the clip 10 has the same material thickness. The clip 10 is then bent into the shape shown in FIG. 2B. The side view of the clip 10 shows how the material thickness of the body 12, the step portion 14, and the prong member 16, 17 is uniform throughout. The specification has been amended to discuss the aforementioned limitations of new claim 21. FIG. 2A has been amended to specifically point out the two different planar widths of the prong members and the blank of the clip. Accordingly, the specification has been amended to make reference to the added reference numbers.

Claims 1, 4-7 and 21 remain in this application.

**35 U.S.C. § 102 and § 103 Rejections**

Claims 1, 2, 6 and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,218,211 to Rowe. Claims 1-4 and 8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,570,623 to Ellison et al.

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(hereinafter “the Ellison patent”). Claims 1-3, 7 and 8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,809,723 to Keith et al. (hereinafter “the Keith patent”). Claim 5 stands rejected under 35 U.S.C. § 103(a) for obviousness over U.S. Patent No. 1,218,211 to Rowe.

None of the aforementioned patents or any other prior art of record, either alone or in combination, disclose, teach, or suggest the limitations set forth in amended claim 1. For example, the bone staple structure disclosed in the Ellison patent shows two legs (2) projecting from the *same side* of a *non-flat* bridge member (3). Furthermore, the legs (2) are not *bent* transverse to the bridge member (3) (this is also not disclosed in the Keith patent). As shown in the figures and discussed in the specification of the Ellison patent, the legs (2) are “joined at their upper ends” to the bridge member (3) (See column 1, line 68 to column 2, line 1).

Furthermore, the Rowe patent discloses an anchor having a depressed portion (3) extending in the *same direction* as the legs (7). Notwithstanding the fact that the legs (7) are not adapted for piercing, the Rowe anchor cannot be used as a spacer, as is the purpose of the present invention, because the depressed portion (3) does not extend in an opposite direction from the top (6) in relation to the legs (7).

In any case, claim 1 has been amended to further define over the prior art of record. Specifically, the material thickness of the flat portion, the step portion, the first prong member, and the second prong member is required to be uniform. This is in contrast to the structure disclosed in, for example, the Ellison patent. Additionally, the planar width of the first and second prong members is less than the planar width of the flat portion and the second portion. This is in contrast to the structure disclosed in, for example, the Rowe and Keith patents.

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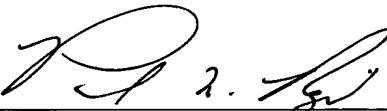
In light of the foregoing amendments, Applicant believes that the subject matter of amended independent claim 1 and the claims depending therefrom is neither anticipated nor rendered obvious by the prior art of record. Reconsideration of the rejections of the pending claims is respectfully requested.

**CONCLUSION**

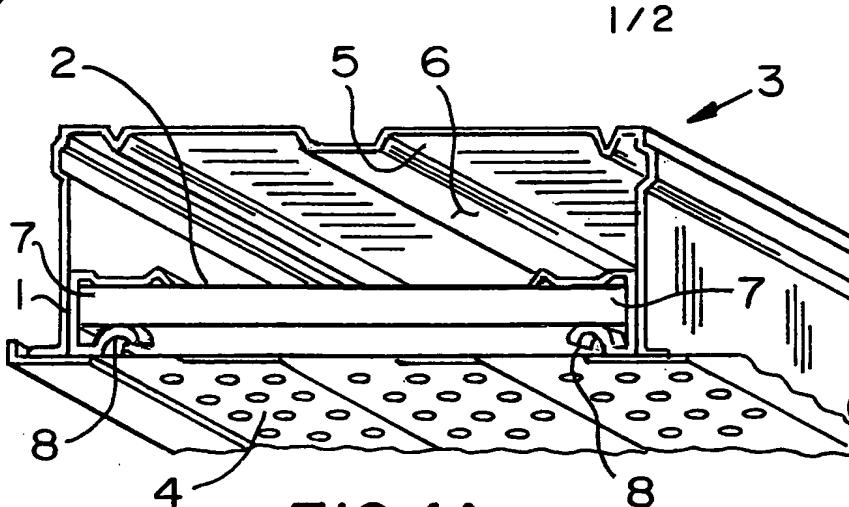
Based on the foregoing amendments and remarks, reconsideration of the rejections and allowance of pending claims 1, 4-7 and 21 are respectfully requested.

Respectfully submitted,

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# **FIG. 1A**

## **PRIOR ART**

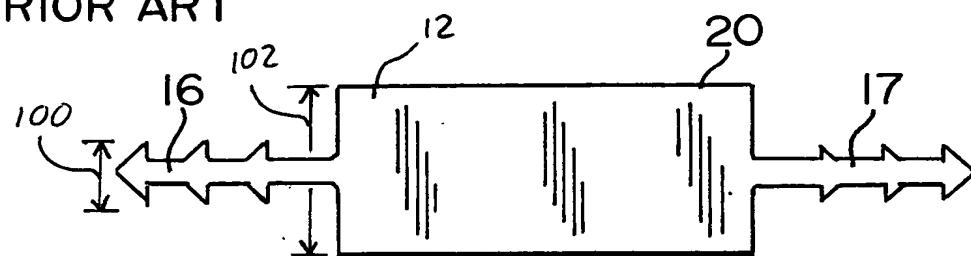
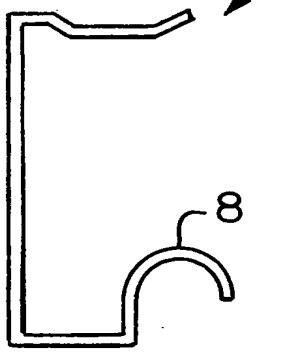


FIG. 2A



**FIG. 1B**  
**PRIOR ART**

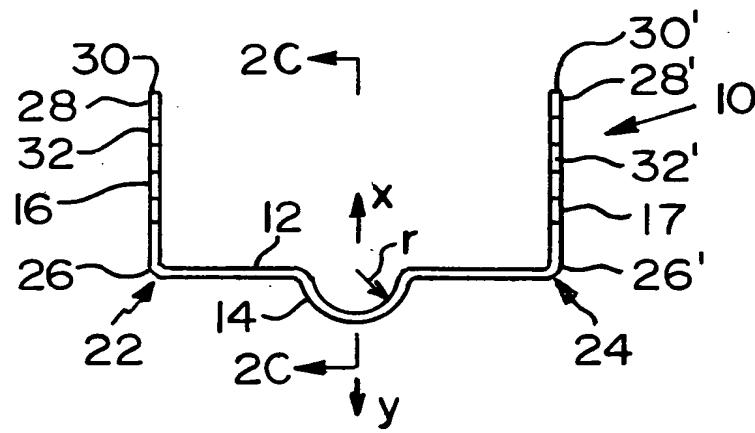


FIG. 2B

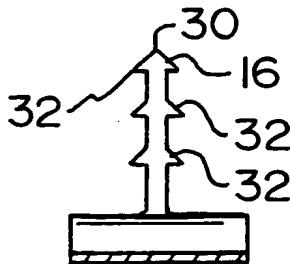


FIG. 2C

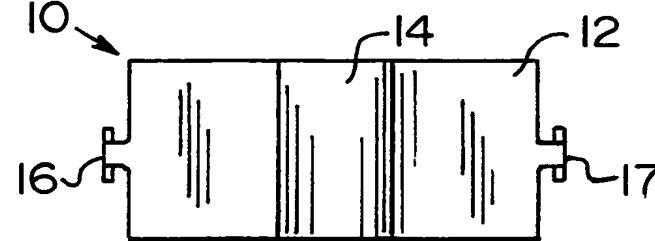


FIG. 2D